

TITLE 172
CHAPTER 3

TITLE 172 - NEBRASKA ADMINISTRATIVE CODE - CHAPTER 3 - REGULATIONS
ESTABLISHING DEFINITIONS OF CONFLICTS OF INTEREST FOR MEMBERS OF THE BOARDS
OF EXAMINERS IN THE HEALTH PROFESSIONS

001 Scope Of Definition

002 Resolution Of Conflict Of Interest

003 Disciplinary Measures

TITLE 172
NEBRASKA ADMINISTRATIVE CODE

Chapter 3
REGULATIONS ESTABLISHING DEFINITIONS OF CONFLICTS OF INTEREST
FOR MEMBERS OF THE BOARDS OF EXAMINERS IN THE HEALTH PROFESSIONS

001 SCOPE OF DEFINITION. As used in these regulations, the term "member of a board of examiners in the health professions" shall mean a member of one of the following: the boards of examiners set forth in the Uniform Licensing Law, Neb. Rev. Stat. 71-112, Board of Nursing, Board of Hearing Aid Instrument Dispensers and Fitters, Board of Registration for Sanitarians, Board of Advanced Emergency Medical Care, Board of Occupational Therapy Practice, Board of Examiners in Massage, and Board of Cosmetology Examiners. Each of the situations described in this section shall be considered a conflict of interest on the part of a member of a board of examiners in the health professions.

001.01 No member of a board of examiners in the health professions shall solicit or accept anything of value, including a gift, loan, contribution, reward, or promise of future employment, for himself or herself, or for a member of his or her immediate family or for a business with which any such individual is associated, based on an agreement that the vote, official action, or judgment of the member of a board of examiners in the health professions would be influenced thereby.

001.02 No member of a board of examiners in the health professions shall use that public office or any confidential information received through the holding of the position of board member to obtain financial gain, other than compensation provided by law, for himself or herself, a member of his or her immediate family, or a business with which any such individual is associated.

001.03 No member of a board of examiners in the health professions shall use personnel, resources, property, or funds under that board member's official care and control, other than in accordance with prescribed constitutional, statutory, and regulatory procedures, or use such items, other than compensation provided by law, for personal financial gain or for the financial gain of a member of his or her immediate family or a business with which any such individual is associated.

001.04 Except as otherwise provided by law, no member of a board of examiners in the health professions, a member of that board member's immediate family, or a business with which any such individual is associated shall enter into a contract valued at two thousand

TITLE 172
CHAPTER 3

dollars or more, in any one year, with the Department of Health unless the contract is awarded through an open and public process which includes prior public notice and subsequent availability for public inspection during the regular office hours of the Department of Health of the proposals considered and the contract awarded. No contract may be divided for the purposes of evading the requirements of this subsection. This subsection is intended to prevent a member of a board of examiners in the health professions from engaging in certain activities under circumstances creating a substantial conflict of interest and is not intended to penalize innocent persons and a contract shall not be absolutely void by reason of this subsection.

002 RESOLUTION OF CONFLICT OF INTEREST. A member of a board of examiners in the health professions who, in the discharge of his or her official duties, would be required to take any action or make any decision that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally, or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict of interest, or should reasonably be aware of such potential conflict, whichever is sooner:

002.01 Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict;

002.02 Deliver a copy of the statement to the Nebraska Accountability and Disclosure Commission; and

002.03 Deliver a copy of the statement to the Director of Health.

002.04 The member of a board of examiners in the health professions shall also exercise one or more of the following steps to remove himself or herself from influence over actions and decisions on the matter:

002.04A Refrain from discussion with other board members of those matters on which a conflict exists, or

002.04B Abstain from voting on the matter on which the potential conflict exists whether by voice vote, secret ballot, or any other method.

002.05 This restriction shall not prevent a member of a board of examiners in the health professions from making or participating in the making of a board decision to the extent that the board member's participation is legally required for the action or decision to be made, and no action could be taken by the board of examiners otherwise due to lack of a quorum or other reason. However, in such event the member of a board of examiners in the health professions shall report the occurrence to the Director of Health and to the Nebraska Accountability and Disclosure Commission.

003 DISCIPLINARY MEASURES. Any member of a board of examiners in the health professions violating the provisions of subsections 001.01, 001.02 or 001.03 shall be guilty of a Class III misdemeanor pursuant to Neb. Rev. Stat. ' 49-14,101, which upon conviction can result in a maximum penalty of three months imprisonment or five hundred dollars fine, or both,

TITLE 172
CHAPTER 3

with no minimum penalty, pursuant to Neb. Rev. Stat. '28-106. A contract involving a prohibited conflict of interest under subsection 001.04 shall be voidable pursuant to Neb. Rev. Stat. '49-14,103. Violation of any of the provisions of section 001 or failure to take any of the steps outlined in section 002 shall constitute malfeasance in office and due cause for action of removal of a member from the board of examiners pursuant to Neb. Rev. Stat. '71-118, other appropriate statute, or Article IV, Section 10 of the Constitution of the State of Nebraska, as applicable.

SOURCE: Nebraska Revised Statutes Sections 71-115.01, 71-379, 49-1493(7), 49-1499, 49-14,101, 49-14,102, 49-14,103 (Reissue 1986); 71-1,132.07(4), 71-4715.01, 71-3706, 71-5507.01, 71-6115(2), 71-2704.01 (Supp. 1987)

Approved By Attorney General: May 5, 1988

Approved By Governor: July 6, 1988

Filed By Secretary Of State: July 12, 1988

Effective Date: July 17, 1988